



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 2770-02
6 November 2002

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 5 November 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Navy on 8 August 1942 at the age of 18. On 3 May 1943 you were convicted by summary court-martial (SCM) of a six day period of unauthorized absence (UA). On 14 October 1943 you received captain's mast (CM) for disobedience and destroying property.

During the period from 5 April to 29 September 1944 you were convicted by SCM on three occasions for three periods of UA totalling 25 days. On 13 November 1944, you were convicted by civil authorities of driving an automobile without the owner's consent and sentenced to confinement for 30 days.

On 31 January 1945 you were convicted by general court-martial (GCM) of a 36 day period of UA. You were sentenced to a reduction in rate, confinement for three years, and a dishonorable discharge (DD). On 3 February 1945 the confinement was mitigated, and you were placed on probation and restored to duty. On 22 March 1945 the DD was mitigated to a bad conduct discharge (BCD) and suspended for eight months. However, on 4 April 1945 you received CM on two occasions for missing muster,

attempting to escape custody, and absence from your appointed place of duty. Subsequently, your probation was terminated and the BCD was ordered executed. On 2 May 1946, after the BCD was approved at all levels of review, you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, and post service conduct. Nevertheless, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge because of your serious and repetitive wartime misconduct in both the military and civilian communities. Further, the Board noted that the DD was mitigated to a BCD, and the BCD was suspended, thus giving you the opportunity to earn a better discharge. However, your misconduct continued and the BCD was ordered executed. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director